

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ROBERT HANKINS,

Plaintiff,

v.

JEFFREY BEARD, et al.,

Defendants.

Civil Action No. 08-219 Erie

**MEMORANDUM ORDER**

This civil rights action was received by the Clerk of Court on July 31, 2008, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation [Doc. No. 75], filed on May 31, 2009, recommended that Defendants' partial motion to dismiss [Doc. No. 69] be granted in part and denied in part. Specifically, the Magistrate Judge recommended that:

1. The motion to dismiss should be granted as to the remaining Camp Hill Defendants Kelchner, Steigerwalt, Taggart, Southers, Stubbs, Hubber, and Carberry based upon the statute of limitations;
2. The motion to dismiss should be granted as to Defendants Sobina, Linderman, Wilson and Bitner, as Plaintiff has failed to adequately allege their personal involvement in order to state a claim, and should be denied as to Defendants Armel, Harris, Burns and Nickelson;
3. The motion to dismiss should be granted as to the due process claims;
4. The motion to dismiss should be granted in part and denied in part as to the access to the courts claims; the access to the courts claim at SSS of the Original Complaint should be dismissed, while all other access claims contained in the Original Complaint should remain pending. The access to courts claims of the Amended Complaint should remain pending as Defendants have not moved to dismiss them; and
5. The motion to dismiss should be denied as to the retaliation claim at ¶ 27 of the Original Complaint, and

all other retaliation claims should remain pending as Defendants have not moved to dismiss them.

The parties were allowed ten (10) days from the date of service to file objections. Service was made on Plaintiff by certified mail and on Defendants. Plaintiff filed objections on June 15, 2009 [Doc. No. 77]. After de novo review of the motion and documents in the case, together with the Report and Recommendation and objections thereto, the following order is entered:

AND NOW, this 2<sup>nd</sup> day of July, 2009;

IT IS HEREBY ORDERED that:

1. The motion to dismiss is GRANTED as to the remaining Camp Hill Defendants Kelchner, Steigerwalt, Taggart, Southers, Stubbs, Hubber, and Carberry based upon the statute of limitations and the Clerk of Courts is directed to terminate these Defendants from this action;
2. The motion to dismiss is GRANTED as to Defendants Sobina, Linderman, Wilson and Bitner, as Plaintiff has failed to adequately allege their personal involvement in order to state a claim and the Clerk of Courts is directed to terminate these Defendants from this action; and is DENIED as to Defendants Armel, Harris, Burns and Nickelson;
3. The motion to dismiss is GRANTED as to the due process claims;
4. The motion to dismiss is GRANTED in part and DENIED in part as to the access to the courts claims; the access to the courts claim at SSS of the Original Complaint is DISMISSED, while all other access claims contained in the Original Complaint shall remain pending. The access to courts claims of the Amended Complaint shall remain pending as Defendants have not moved to dismiss them and the Clerk of Courts is directed to terminate Defendant Gent from this action; and
5. The motion to dismiss is DENIED as to the retaliation claim at ¶ 27 of the Original Complaint, and all other retaliation claims shall remain pending as Defendants have not moved to dismiss them.

The Report and Recommendation [Doc. No. 75] of Magistrate Judge Baxter, filed on May 31, 2009, is adopted as the opinion of the Court.

s/ Sean J. McLaughlin  
United States District Judge

cm: All parties of record  
Susan Paradise Baxter, U.S. Magistrate Judge